



City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, April 15, 2009

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 7:20 p.m.

INVOCATION:

Council member Van Pearlberg introduced Barry Lancaster, Associate Minister of Maple Avenue Methodist Church, who gave the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Dunaway called upon his assistant Mary Anne Landers to lead the pledge of allegiance.

PRESENTATIONS:

PROCLAMATIONS:

20090278 Donate Life Month

Proclamation accepted by Ms. Pamela Locke recognizing April 2009 as National Donate Life Month in the City of Marietta to honor all those who made the decision to give the gift of life, to focus attention on the extreme need for organ, tissue, and eye donation, to encourage all residents to take action and sign up on Georgia's Donor Registry at www.donatelifegeorgia.org to discuss the miracle of transplantation as a family, and to make a family commitment to organ, tissue, and eye donation.

This matter was Presented.

20090313 Coach Hood

Proclamation presented to Coach Hood in honor of his service to Marietta High School and the city of Marietta.

This matter was Presented.

20090314 Sexual Assault Awareness Day

Proclamation presented to Ms. Holly Comer, CEO & Executive Director of the Northwest Georgia YWCA Inc., recognizing April 23, 2009 as Sexual Assault Awareness Day.

This matter was Presented.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

Council member Walquist mentioned that the Marietta Tree Keepers would be planting trees at the Marietta High School Saturday, April 18th at 9 am. The Re-opening Ceremony for Henry Park will be held Saturday, April 18th from 4-6 pm. Also, Keep Marietta Beautiful will hold Volunteer Day Saturday, April 25th with various activities around the City.

Mayor Dunaway mentioned that Bill Kinney would be honored at the Marietta Schools Foundation on Saturday, April 25, 2009.

Mayor Dunaway thanked those citizens who serve on City Boards and Commissions, many of whom do not receive compensation.

Mayor Dunaway invited everyone to stop and view the Memorial located in the City Hall Plaza. The Memorial was built and dedicated in honor of employees who have lost their lives in the line of duty. This was a project by the 2008-2009 Leadership Development Class made up of City employees.

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Dunaway briefly explained the consent agenda process. The following amendments were made to the consent agenda:

A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add an agenda item regarding the Clarke Library Sublease. The motion carried by the following vote:

**Vote: 7 - 0 - 0
(See agenda item 20090956)**

Approved

A motion was made by Council member Goldstein, seconded by Council member King, to add the Clarke Library Sublease to the consent agenda. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

-under Ordinances: Agenda item 20090101 was amended to read, "Motion to table the rezoning request by Acme American, LLC (Joel Digby) for property located at 301 and 311 Old Clay Street until the May 13, 2009 regular City Council meeting."

-under Personnel/Insurance: Agenda items 20090226 was added to the consent agenda and amended to read, "Motion to appoint Diane Lidz and Peter Bilson to the Marietta Redevelopment Corporation (MRC) Board of Directors for 2-year terms expiring on April 10, 2011." Agenda item 20090273 was added to the consent agenda and amended to read, "Motion to appoint Marilyn S. Massey to the Cobb County Youth Museum Board."

-under Public Works: Agenda item 20090256 was removed from the consent agenda.

-under Other Business: Agenda item 20090173 was amended to read, "Motion to table the Variance request by Total Imaging for property located at 1946 Roswell Road until the May 13, 2009 regular City Council meeting." Agenda items 20090346 and 20090349 were removed from the agenda. Agenda item 20090349 was added to the consent agenda. Agenda item 20090350 was added to the consent agenda and the following sentence was added to the end: Provided however, City staff is authorized to purchase the right-of-way for the counter offer price of \$46,220 based upon the signed documents from the seller. Agenda item 20090292 was added to the consent agenda.

A motion was made by Council member King, seconded by Council member Walquist, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

Vote: 7 - 0 - 0

Approved

with the following exceptions:

-Council member Goldstein abstaining on agenda item 20090333.

--Council member Chalfant opposed to agenda item 20090308 of the BLW Actions dated March 9, 2009 and Council member Goldstein opposed to the BLW Action regarding the utility relocation project.

MINUTES:

*** 20090293 Regular Meeting - March 11, 2009**

Review and approval of the March 11, 2009 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS:**20090285 Marietta Housing Authority**

Reappointment of J. Larry Stevens to the Marietta Housing Authority for a term of five (5) years beginning May 29, 2009 and expiring on May 29, 2014.

This matter was Approved by the Mayor.

CITY COUNCIL APPOINTMENTS:**ORDINANCES:**

- * **20090101 Z2009-04 Acme American, LLC (Joel Digby) 301 and 311 Old Clay Street**
Z2009-04 [REZONING] Acme American, LLC (Joel A. Digby) request rezoning for property located in Land Lots 02880 and 02890, 17th District, Parcels 0390 and 0120, 2nd Section, Marietta, Cobb County, Georgia and being known as 301 and 311 Old Clay Street from OI (Office Institutional) and R-4 (Single Family Residential 4 units/acre) to CRC (Community Retail Commercial). Ward 5.

Motion to table the rezoning request by Acme American, LLC (Joel Digby) for property located at 301 and 311 Old Clay Street until the May 13, 2009 regular City Council meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved as Amended

20090171 Z2009-05 McWhirter Realty Corp 732 Cherokee Street and 104 Lewis Drive

Ord 7304 Z2009-05 [REZONING] MCWHIRTER REALTY CORP. (BARRY MCWHIRTER) request rezoning for property located in Land Lot 1074, 16th District, Parcels 39 and 50, 2nd Section, Marietta, Cobb County, Georgia and being known as 732 Cherokee Street and 104 Lewis Drive from OI (Office Institutional) to OI (Office Institutional) with stipulations. Ward 4.

Mayor Dunaway opened the public hearing. City Attorney Douglas Haynie explained the rules of order. Seeing no one wishing to speak, Mayor Dunaway closed the public hearing.

Motion to approve the rezoning request with the following stipulations:

- 1. The Letter of Stipulations dated April 14, 2009 from Kevin Moore shall be incorporated as a condition of the zoning.*
- 2. The variances to reduce the setbacks in item 6 of the Letter of Stipulations would only be granted as requested to the extent that they are required to meet the current site plan.*
- 3. The items included in the e-mail dated April 15, 2009 from Public Works Director Dan Conn to Kevin Moore shall be incorporated as a condition of the zoning.*

4. The site plan with a revised date of April 15, 2009 and signed by the applicant shall be incorporated as a condition of the zoning; the building shall be site plan specific.

5. The applicant agrees that no part of the building shall be constructed in the City right-of-way regardless of what the site plan or other stipulations may state.

6. The applicant agrees that any right of way to be donated to the City shall be done so prior to the issuance of any land disturbance permits. Item 1 of the aforementioned e-mail shall be amended to read, "Revising the right-of-way may result in landscaping within the right-of-way, with maintenance of said landscaping by the applicant. Further, the applicant shall be given credit for any landscaping in the right-of-way donated to the City."

The motion was made by Council member Pearlberg, seconded by Council member Goldstein, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved as Stipulated

*** 20090310 Code Enforcement - 108 W. Dixie Avenue**

Ord 7302

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 108 West Dixie Avenue.

Listed Owner: Anderson, Mattie Geneva Irrevoc/Craig, Carol M. as Trustee

Certified mail receipt received 03/21/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090333 Code Enforcement - 131 Lacy Street**

Ord 7303

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 131 Lacy Street.

Listed Owner: Roselane Professional Group LL

Certified mail receipt not received as of 04/02/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstain: 1 - Philip M. Goldstein

RESOLUTIONS:**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson**

- * **20090274 Legacy at Walton Village**
Res 1457 Approval of a Resolution endorsing the application by the Marietta Housing Authority and Walton Communities, LLC to the Georgia Department of Community Affairs for low-income housing tax credits to develop the Legacy at Walton Village Phase II; a senior citizen community at 1570 Roberta Drive, Marietta, Georgia.
This Matter was Discussed on the Consent Agenda.
Vote: 7 - 0 - 0 Discussed

2. Finance/Investment: Annette Lewis, Chairperson**3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

- * **20090095 Welcome Center Lease**
C/A 3638 Motion to approve the State of Georgia's Ground Lease for the Marietta Welcome Center.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 Approved

- * **20090241 Temporary Polling Place Change - Ward 7A**
Motion authorizing advertisement of a temporary polling place change for Ward 7A for the 2009 Elections.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 Approved

- * **20090264 Appointment of Assistant Solicitor**
Motion approving the appointment of Janet Newberg as an Assistant Solicitor.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 Approved

- * **20090268 Agreement for jail arraignments**
Motion to approve an Agreement for services by current Associate Judge, Melinda Taylor, to replace Judge R. Castellanos for the purpose of conducting jail arraignments.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

- * **20090272 2009 Juneteenth Celebration Festival**
Motion approving street closures and city co-sponsorship for the Juneteenth Celebration conducted by the Cobb Branch of the NAACP on Saturday, June 20, 2009. Further, the NAACP shall be responsible for all trash pick and/or fees for sanitation vehicles.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

- * **20090226 MRC Board Appointments**
Appointments of Marietta Redevelopment Corporation (MRC) Board Members.
Motion to appoint Diane Lidz and Peter Bilson to the Marietta Redevelopment Corporation (MRC) Board of Directors for 2-year terms expiring on April 10, 2011.

This Matter was Discussed on the Consent Agenda.

Vote: 7 - 0 - 0

Discussed

- * **20090348 MRC Board Appointments**
Reappointment of Floyd Northcutt and Brian Strack to the Marietta Redevelopment Corporation Board of Directors for 2-year terms expiring on April 10, 2011.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

- * **20090273 Cobb County Youth Museum Appointment**
Appointment to the Cobb County Youth Museum.
Motion to appoint Marilyn S. Massey to the Cobb County Youth Museum Board.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20090254 Lawrence Street**

Motion approving the Lawrence Street project consisting of Option 1 and 4, with additional spot repair and maintenance of specific locations on the south side.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090277 Request for temporary reserved parking spaces**

Motion to approve the request by Cobb County and the Georgia State Patrol for reserved parking spaces on Dobbs Street for up to a one-year period, with Cobb County paying the cost for installation and removal of signs and/or street markings.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090256 Fairground Street**

Motion to approve the following for the Fairground Street Power Relocation Project:

1. New wood poles along the east side of Fairground Street.
2. All utilities attached to these new poles shall be underground where they cross Fairground Street.
3. Pedestrian lights of a style similar to the banded acorns on Roswell Street shall be installed.
4. Intersections at Allgood, North Loop and Roswell Street shall be all underground utilities.

A motion was made by Council member King, seconded by Council member Chalfant, to approve this matter.

A substitute motion was made by Council member Goldstein, seconded by Council member Coleman, to approve the Fairground Street Power Relocation project going underground. The motion failed by the following vote:

Vote: 2 - 4 - 0

Failed

Mayor Dunaway called for a vote on the original motion.

The motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0**Approved**

Vote Against: 2 - Philip M. Goldstein and Rev. Anthony Coleman

*** 20090322 Partial easements**

Motion authorizing partial temporary easements of the following properties:

675 Tower Road from CDH Enterprises, LLC in exchange for \$12,500 to replace landscaping for the purpose of the Kennesaw Avenue Bridge Replacement project.

697 Kennesaw Ave. & 832 N. St. Mary's Lane from Robert Earl Brown in exchange for \$17,822.40 for the purpose of the Kennesaw Avenue Bridge Replacement project.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved****SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:****OTHER BUSINESS:****20090173 V2009-04 Total Imaging 1946 Roswell Road**

*** V2009-04 TOTAL IMAGING [Sign Variance]** request variances for property located in Land Lot 11340, 16th District, Parcel 0030, 2nd Section of Cobb County, Marietta, Georgia and being known as 1946 Roswell Road. Variance to allow replacement of sign panels on a non-conforming sign structure without a valid sign permit. Variance to allow a second detached sign along the same road frontage. Ward 6.

Motion to table the Variance request by Total Imaging for property located at 1946 Roswell Road until the May 13, 2009 regular City Council meeting.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved as Amended***** 20090294 V2009-07 Marietta Housing Authority 300 Victory Drive**

V2009-07 MARIETTA HOUSING AUTHORITY [Landscape Variance] requests a variance for property located in Land Lot 12860, 16th District, Parcel 0850, 2nd Section of Cobb County, Marietta, Georgia and being known as 300 Victory Drive. Variance to reduce the required landscape strip from 10 feet to 0'. Ward 1.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved**

20090295 V2009-08 QuikTrip 495 South Fairground Street and 600 South Marietta Parkway

V2009-08 QUIKTRIP CORPORATION request variances for property located in Land Lot 361, 17th District, Parcels 0300 and 0350, 2nd Section of Cobb County, Marietta, Georgia and being known as 600 South Marietta Parkway and 495 South Fairground Street. Variance to reduce the rear yard setback from 35 feet to 30 feet; Variance to increase the maximum front yard setback from 75 feet to 131 feet; Variance to allow a blank, windowless wall facing S. Marietta Parkway; Variance to reduce the minimum building height from 18' to 16'4"; Variance to allow up to five street trees to be located outside of the proposed landscape strip along S. Marietta Parkway; Variance to increase the maximum sign height from 15' to 16'4' for the proposed sign along S. Marietta Parkway; Variance to increase the allowable copy area for the proposed sign along S. Marietta Parkway from 90 square feet to 98 square feet.; and Variance to increase the allowable copy area for the proposed sign along S. Fairground Street from 50 square feet to 64 square feet.

The applicant agrees to dedicate right-of-way along the S. Fairground Street sufficient in width to allow for a right turn lane and along South Marietta sufficient in width to allow for a decel lane. The donation of right-of-way shall be done before the issuance of any land disturbance permits and shall be subject to the approval of the City Manager and Public Works Director. The property owner is granted a variance to the Landscape Ordinance to the extent that the plans require the vegetation and/or trees to be removed that would have otherwise been required within the donated right-of-way. Further, the property owner is granted a variance that reduces the setback requirements along S. Fairground Street and South Marietta Parkway that scales with the donation of right-of-way.

Mayor Dunaway called forward anyone wishing to speak regarding this matter.

Nathan Richardson, representing Quik Trip Corporation, 952 Old Peachtree Road, Lawrenceville, GA, requested several variances for property known as 600 South Marietta Parkway and 495 South Fairground Street.

Discussion was held regarding the requested variances.

Motion to approve the Variance Request by Quik Trip Corp., for property located in Land Lot 361, 17th District, Parcels 0300 and 0350, 2nd Section of Cobb County, Marietta, Georgia and being known as 600 South Marietta Parkway and 495 South Fairground Street. Variance to reduce the rear yard setback from 35 feet to 30 feet; Variance to increase the maximum front yard setback from 75 feet to 131 feet; Variance to allow a blank, windowless wall facing S. Marietta Parkway; Variance to reduce the minimum building height from 18' to 16'4'; Variance to allow up to five street trees to be located outside of the proposed landscape strip along S. Marietta Parkway; Variance to increase the maximum sign height from 15' to 16'4' for the proposed sign along S. Marietta Parkway;

Variance to increase the allowable copy area for the proposed sign along S. Marietta Parkway from 90 square feet to 98 square feet.; and Variance to increase the allowable copy area for the proposed sign along S. Fairground Street from 50 square feet to 64 square feet.

The applicant agrees to dedicate right-of-way along the S. Fairground Street sufficient in width to allow for a right turn lane and along South Marietta sufficient in width to allow for a decel lane. The donation of right-of-way shall be done before the issuance of any land disturbance permits and shall be subject to the approval of the City Manager and Public Works Director. The property owner is granted a variance to the Landscape Ordinance to the extent that the plans require the vegetation and/or trees to be removed that would have otherwise been required within the donated right-of-way. Further, the property owner is granted a variance that reduces the setback requirements along S. Fairground Street and South Marietta Parkway that scales with the donation of right-of-way.

The motion was made by Council member Lewis, seconded by Council member Goldstein, that this matter be Approved as Amended. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved as Amended

*** 20090332 Application for the GA Municipal Association "Certified City of Ethics Program**

Res 1458

Motion to adopt a "Certified City of Ethics" resolution and authorization for staff to submit the resolution and the City of Marietta Code of Ethics Ordinance to the Georgia Municipal Association for application to their "Certified City of Ethics" program.

This Matter was Discussed on the Consent Agenda.

Vote: 7 - 0 - 0

Discussed

20090346 Cobb County Courthouse Landscape License Agreement

Motion approving a Landscape License Agreement between the City of Marietta and Cobb County.

This matter was Removed.

20090347 Cobb County Courthouse Easement and Bridge Agreement

Motion approving an Easement and Bridge Agreement between the City of Marietta and Cobb County.

This matter was Removed.

* **20090349 Property Acquisitions**

Motion authorizing donation of construction and driveway easements for the Kennesaw Avenue Improvements project, for the following properties:

348 Kennesaw Avenue - with no stipulations

354 Kennesaw Avenue - with stipulation that driveway aprons to maintain shape and position of existing gravel drive. Existing fence and trees to be protected in place.

359 Kennesaw Avenue - with stipulation that retaining wall at right of way not be disturbed

363 Kennesaw Avenue - with stipulation that granite walls at driveway to remain intact.

369 Kennesaw Avenue - with stipulation that driveway apron be extended additional 3' north of existing driveway for future widening of driveway.

485 Kennesaw Avenue - with stipulation that existing brick pavers in apron and sidewalk areas be replaced with similar materials.

539 Kennesaw Avenue - with stipulation that driveway apron be angled at 45 degrees on both sides. Contractor to be aware of sprinkler system adjacent to right of way.

611 Kennesaw Avenue - with no stipulations

621 Kennesaw Avenue - with stipulations that no utilities be constructed within easement areas. Easement expires no later than May 31, 2010.

290 Saint Mary's Lane - with stipulation that driveway apron at southern entrance be increased in width by 5'.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090350 Property acquisition**

Motion to authorize the acquisition of property owned by Bradford and Katherine Turner at 651 St. Anne's Road NW on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

The following sentence was added to the end of the motion, "Provided however, City staff is authorized to purchase the right-of-way for the counter offer price of \$46,220 based upon the signed documents from the seller."

This Matter was Approved as Amended on the Consent Agenda.

Vote: 7 - 0 - 0

Approved as Amended

20090356 Sublease Agreement - Clarke Library

Motion to approve the sublease of the Clarke Library and to authorize K. Mike Whittle Designs, Inc., to become the sub-tenant of property known as 156 Church Street. The Sublease Agreement is on file with the City Clerk's Office. This motion is contingent upon the City receiving all signatures and the deposit no later than April 20, 2009, after which this approval shall be null and void.

This Matter was Approved as Amended on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090292 BLW Actions of April 6, 2009**

Review and approval of the April 6, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

Council member Chalfant opposed to agenda item 20090308 of the BLW Actions dated March 9, 2009 and Council member Goldstein opposed to the BLW Action regarding the utility relocation project.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

ADJOURNMENT:

The meeting was adjourned at 8:30 p.m.

Date Approved: 05/13/09

William B. Dunaway, Mayor

Attest: _____
Stephanie Guy, City Clerk